



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Dept. of Agriculture

☒ **Preproposal Statement of Inquiry was filed as WSR 16-20-108; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information: (Describe Subject) Chapter 16-233 WAC – Worker Protection Standard. The Department is proposing to adopt the revised federal Worker Protection Standard specified in 40 C.F.R. §170 (Worker Protection Standard).

Hearing location(s):

WA Dept. of Agriculture
222 North Havana
Spokane, WA 99202
Conference Room 202

Date: January 10, 2017
Time: 1:00 PM

WA Dept. of Agriculture
21 North First Avenue
Yakima, WA 98902
Conference Room 238

Date: January 11, 2017
Time: 11:00 AM

WA Dept. of
Transportation
4100 Cedardale Road
Mt. Vernon, WA 98274
Main Conference Room

Date: January 13, 2017
Time: 11:00 AM

Submit written comments to:

Name: Henri Gonzales, Rules Coordinator
Address: PO Box 42560
Olympia, WA 98504-2560
e-mail wsdarulescomments@agr.wa.gov
fax (360) 902-2094
by January 13, 2017

Date of intended adoption:

(Note: This is **NOT** the effective date)

January 27, 2017

Assistance for persons with disabilities: Contact

Agency receptionist by January 4, 2017

TTY (800) 833-6388 or 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules: On November 2, 2015, the U.S. Environmental Protection Agency (EPA) updated their Worker Protection Standard (40 C.F.R. §170). This regulation specifies workplace practices designed to reduce or eliminate exposure to pesticides and establishes procedures for responding to exposure-related emergencies. This regulation is intended to reduce the risks of illness or injury to workers and handlers resulting from occupational exposures to pesticides used in the production of agricultural plants on agricultural establishments. Most of the new federal regulation goes into effect January 2017; with four provisions going into effect January 2018. Some of the revisions to the new regulation include provisions regarding: training, posting and recordkeeping of safety data sheets, notification of treated areas for restricted-entry intervals, minimum age for handlers and early-entry workers, application exclusion zones, display of basic pesticide safety information, personal protective equipment, emergency eye flushing, and information to be provided to medical personnel treating victims.

On March 31, 2016, the Department requested equivalency from EPA in an area of the Worker Protection Standard (WPS) regarding decontamination water for handlers and early-entry workers. WAC 16-233-150(4) and WAC 16-233-250(6) currently requires employers to provide at least ten gallons of water for one employee (handlers or early-entry workers) and 20 gallons of water for two or more employees (handlers or early-entry workers) at sites that do not have running water. The revised federal WPS requires employers to provide at least three gallons of water for each early-entry worker and handler. EPA approved the Department's request for equivalency on October 27, 2016.

Reasons supporting proposal: RCW 17.21.440(2)(b) requires the Department to adopt rules for safety and health standards that are at least as effective as the federal standard. Revising chapter 16-233 WAC to adopt the new federal Worker Protection Standard is necessary to remain uniform with current federal regulations. Although, agricultural employers are still required to follow the new federal regulation whether we adopt it or not because it is incorporated onto pesticide labeling through reference. Both state and federal regulations prohibit the use of a product inconsistent with its labeling.

Statutory authority for adoption: RCW 15.58.040, RCW 17.21.030, and chapter 34.05 RCW

Statute being implemented: Chapters 15.58 and 17.21 RCW

Is rule necessary because of a:

Federal Law? ☒ Yes ☐ No
 Federal Court Decision? ☐ Yes ☒ No
 State Court Decision? ☐ Yes ☒ No
 If yes, CITATION:
 40 C.F.R. §170

DATE

December 7, 2016

NAME (type or print)

Brent L. Barnes

SIGNATURE

TITLE

Assistant Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 07, 2016

TIME: 10:47 AM

WSR 16-24-092

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Washington State Dept. of Agriculture

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Joel Kangiser	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2013
Implementation.....Joel Kangiser	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2013
Enforcement..... Alberto Isiordia	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2036

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone ()

fax ()

e-mail

☒ No. Explain why no statement was prepared. This rule amendment is adopting the updated federal Worker Protection Standard specified in 40 C.F.R. §170. Per RCW 19.85.061 an agency is not required to complete a Small Business Economic Impact Statement when adopting any rule solely for the purpose of conformity or compliance, or both, with federal statute or regulations.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

☒ No: Please explain: The Washington State Dept. of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).